

ASSEMBLY BILL

No. 1514

Introduced by Assembly Member Firebaugh

February 21, 2003

An act to amend Section 25395.20 of the Health and Safety Code, relating to hazardous substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 1514, as introduced, Firebaugh. Environmental protection.

Existing law defines terms for purposes of the law governing brownfields.

This bill would make technical, nonsubstantive changes in those definitions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25395.20 of the Health and Safety Code
2 is amended to read:
3 25395.20. (a) For purposes of this article, the following
4 definitions ~~shall~~ apply:
5 (1) "Account" means the Cleanup Loans and Environmental
6 Assistance to Neighborhoods Account established pursuant to
7 subdivision (b).
8 (2) (A) "Brownfield" means property that meets all of the
9 following conditions:
10 (i) It is located in an urban area.

(ii) It was previously the site of an economic activity that is no longer in operation at that location.

(iii) It has been vacant or has had no occupant engaged in year-round economically productive activities for a period of not less than the 12 months previous to the date of application for a loan pursuant to this article.

(B) “Brownfield” does not include any of the following:

(i) Property listed, or proposed for listing, on the National Priorities List pursuant to the federal act (42 U.S.C. Sec. 9605 (a)(8)(B)).

(ii) Property that is, or was, owned or operated by a department, agency, or instrumentality of the United States.

(iii) Property that will be the site of a contiguous expansion or improvement of an operating industrial or commercial facility, unless the property is a brownfield described in subparagraph (C) of paragraph (6).

(3) “Cleanup and abatement order” means an order issued by a regional board pursuant to Section 13304 of the Water Code.

(4) “Cleanup Loans and Environmental Assistance to Neighborhoods Program” or “CLEAN” means the loan program established by the department pursuant to Section 25395.22, to finance the performance of actions necessary to respond to the release or threatened release of hazardous material on an eligible property.

(5) “Economic activity” means a governmental activity, a commercial, agricultural, industrial, or not-for-profit enterprise, or other economic or business concern.

(6) “Eligible property” means a site that is any of the following:

(A) A brownfield.

(B) An underutilized property that is any of the following:

(i) A property described in clause (v) of subparagraph (D) of paragraph (16).

(ii) A property located in an enterprise zone established pursuant to the Enterprise Zone Act (Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code), in a project area for which a redevelopment plan has been approved pursuant to Article 4 (commencing with Section ~~33300~~ 33330) of Chapter 4 of Part 1 of Division 24, or in an eligible area, as determined by the Technology, Trade, and Commerce Agency

1 pursuant to paragraph (2) of subdivision (c) of Section 7072 of the
2 Government Code.

3 (iii) A property, the redevelopment of which will result in any
4 of the following:

5 (I) An increase in the number of full-time jobs that is at least
6 100 percent greater than the number of jobs provided by the
7 economic activity located on the property before redevelopment
8 occurred.

9 (II) An increase in property taxes paid to the local government
10 that is at least 100 percent greater than the property taxes paid by
11 the property owner before redevelopment occurred.

12 (III) Sales tax revenues to the local government that are
13 sufficient to defray the costs of providing municipal services to the
14 property after the redevelopment occurs.

15 (IV) Housing for very low, low-, or moderate-income
16 households, as defined in paragraph (2) of subdivision (h) of
17 Section 65589.5 of the Government Code.

18 (V) The construction of new or expanded school facilities,
19 public day care centers, parks, or community recreational
20 facilities.

21 (C) A brownfield or an underutilized property described in
22 clause (ii) of subparagraph (B) that will be the site of a contiguous
23 expansion of an operating industrial or commercial facility owned
24 or operated by one of the following:

25 (i) A small business.

26 (ii) A nonprofit corporation formed under the Nonprofit Public
27 Benefit Corporation Law (Part 2 (commencing with Section 5110)
28 of Division 2 of Title 1 of the Corporations Code) or the Nonprofit
29 Religious Corporation Law (Part 4 (commencing with Section
30 9110) of Division 2 of Title 1 of the Corporations Code).

31 (iii) A small business incubator that is undertaking the
32 expansion with the assistance of a grant authorized by Section
33 15339.3 of the Government Code or a loan guarantee provided
34 pursuant to Section 14090 of the Corporations Code.

35 (7) “Eligible property” does not include any of the following:

36 (A) Property listed or proposed for listing on the National
37 Priorities List pursuant to the federal act (42 U.S.C. Sec. 9605
38 (a)(8)(B)).

39 (B) Property that is, or was, owned or operated by a
40 department, agency, or instrumentality of the United States.

(C) Property that will be the site of a contiguous expansion or improvement of an operating industrial or commercial facility, unless the property meets the criteria specified in subparagraph (C) of paragraph (6).

(8) (A) “Hazardous material” means a substance or waste that, because of its physical, chemical, or other characteristics, may pose a risk of endangering human health or safety or of degrading the environment. “Hazardous material” includes, but is not limited to, all of the following:

(i) A hazardous substance, as defined in Section 25281 or 25316, including the substances specified in Section 25317.

(ii) A hazardous waste, as defined in Section 25117.

(iii) A waste, as defined in Section 101075, or as defined in Section 13050 of the Water Code.

(B) “Hazardous material” does not include undisturbed naturally occurring hazardous material unless it will adversely affect the reasonable use of a property after response action is completed.

(9) “Implementation costs,” for purposes of the expenditure of any funds pursuant to this article, includes, but is not limited to, the costs of overseeing and reviewing preliminary endangerment assessments and response actions that are financed by a loan issued pursuant to this article, including oversight conducted by a regional board pursuant to Section 25395.28.

(10) “Investigating site contamination program” means the loan program established by the department pursuant to Section 25395.21 to conduct a preliminary endangerment assessment of a brownfield or an underutilized urban property.

(11) “Leaking underground fuel tank” has the same meaning as “tank,” as defined in Section 25299.24.

(12) “No longer in operation” means an economic activity that is, or previously was, located on a property that is not conducting operations on the property of the type usually associated with the economic activity.

(13) “Project” means any response action, and the planned future development, included in an application for a loan pursuant to Section 25395.22.

(14) “Property” means real property, as defined in Section 658 of the Civil Code.

1 (15) “Small business” means an independently owned and
2 operated business, that is not dominant in its field of operation,
3 that, together with affiliates, has 100 or fewer employees, and that
4 has average annual gross receipts of ten million dollars
5 (\$10,000,000) or less over the previous three years, or a business
6 that is a manufacturer, as defined in Section 14837 of the
7 Government Code, with 100 or fewer employees.

8 (16) “Underutilized property” means property that meets all of
9 the following conditions:

10 (A) It is located in an urban area.

11 (B) An economic activity is conducted on the property.

12 (C) It is the subject of a proposal for development pursuant to
13 this article.

14 (D) One of the following applies:

15 (i) The economic activity on the property is irregular or
16 intermittent in nature and uses the property for productive
17 purposes less than four months in any calendar year.

18 (ii) The economic activity on the property employs less than 25
19 percent of the property for productive purposes.

20 (iii) The structures, infrastructure, and other facilities on the
21 property are antiquated, obsolete, or in such poor repair that they
22 cannot be used for the purposes for which they were originally
23 constructed and require replacement in order to implement the
24 redevelopment proposal.

25 (iv) The economic activity conducted on the property is a
26 parking facility or an activity that offers a similar marginal
27 economic service and the facility or activity will be replaced when
28 the property is redeveloped.

29 (v) The property is adjacent to one or more brownfields or
30 underutilized properties that are the subject of a project under this
31 article and its inclusion in the project is necessary in order to ensure
32 that the redevelopment of the brownfield or brownfields or
33 underutilized property or underutilized properties occurs.

34 (E) An underutilized property does not include any of the
35 following:

36 (i) Property listed or proposed for listing on the National
37 Priorities List pursuant to the federal act (42 U.S.C. Sec. 9605
38 (a)(8)(B)).

39 (ii) Property that is, or was, owned or operated by a department,
40 agency, or instrumentality of the United States.

(iii) Property that will be the site of a contiguous expansion or improvement of an operating industrial or commercial facility, unless the property is an underutilized property described in subparagraph (C) of paragraph (6).

(17) “Regional board” means a California regional water quality control board.

(18) “State board” means the State Water Resources Control Board.

(19) “Urban area” means either of the following:

(A) The central portion of a city or a group of contiguous cities with a population of 50,000 or more, together with adjacent densely populated areas having a population density of at least 1,000 persons per square mile.

(B) An urbanized area as defined in ~~paragraph (2) of subdivision (b) of Section 21080.7~~ 21071 of the Public Resources Code.

(b) The Cleanup Loans and Environmental Assistance to Neighborhoods Account is hereby established in the General Fund to provide low-interest loans to qualified applicants for the purpose of funding preliminary endangerment assessments and response actions at brownfields and underutilized properties located in the state pursuant to this article, and for any other purpose determined by the department to stimulate the redevelopment of brownfields and underutilized properties, if the department determines that the redevelopment will result in the overall improvement of the community in which the property is located and will provide a reasonable economic or social benefit, in accordance with subdivision (c). All of the following moneys shall be deposited in the account:

(1) Funds appropriated by the Legislature for the purposes of this article.

(2) Notwithstanding Section 16475 of the Government Code, any interest earned upon money deposited into the account.

(3) Proceeds from loan repayments.

(4) Proceeds from the sale of property pursuant to this article that is the subject of foreclosure or its equivalent, as defined in subdivision (f) of Section 25548.1, and proceeds from the enforcement of any other security interest.

(c) (1) Except as provided in paragraph (2), notwithstanding Section 13340 of the Government Code, the money in the account

1 is continuously appropriated without regard to fiscal years to the
2 department for the purpose of providing loans pursuant to Sections
3 25395.21 and 25395.22 and for the purpose of providing subsidies
4 for environmental insurance pursuant to Article 8.7 (commencing
5 with Section 25395.40), the California Financial Assurance and
6 Insurance for Redevelopment Program.

7 (2) The money in the account may be expended by the
8 department, a regional board, the state board, and the agency for
9 the implementation and administration of this article and for
10 implementation and administration of the California Financial
11 Assurance and Insurance for Redevelopment Program (Article 7
12 8.7 (commencing with Section 25395.40)), only upon
13 appropriation by the Legislature in the annual Budget Act or in
14 another measure.

